

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT WINCHESTER

FREEMAN M. FROTHINGHAM, JR., )  
as Executor of the Estate of and for use and )  
benefit of the Statutory Beneficiaries of )  
Freeman M. Frothingham, Sr., Deceased, )  
 )  
*Plaintiff*, )  
 )  
v. ) Case No. 4:12-cv-35-SKL  
 )  
GGNSC WINCHESTER, d/b/a Golden )  
LivingCenter-Mountainview, et al., )  
 )  
*Defendants*. )

**AMENDED SCHEDULING ORDER**

Before the Court is a motion to continue [Doc. 58] filed by Plaintiff, who seeks to continue the trial date and other pretrial deadlines as set in the scheduling order [Doc. 32]. A hearing on the motion to continue was held on November 4, 2013. Present at the hearing were Attorney Joseph K. Dughman on behalf of Plaintiff and Attorneys Sheri A. Fox and Amanda E. Kelley on behalf of Defendants. Defendants filed no response to the motion to continue and do not oppose the motion. The parties plan to engage in mediation in December, and agreed to the following amendments to accommodate the mediation. By agreement of the parties and for good cause shown, the motion to continue [Doc. 58] is **GRANTED** and the scheduling order is amended as follows:

**Disclosure and Discovery**

(a) **Final Witness List**: On or before **June 2, 2014**, each party shall provide to all other parties a final witness list in accordance with Fed. R. Civ. P. 26(a)(3)(A). Within five (5) days after service of this final witness list, the list may be supplemented. After that time, the list may be supplemented only with leave of the Court and for good cause.

(b) **All Discovery**: All discovery, including the taking of depositions “for evidence,” shall be completed by **June 16, 2014**. After this date, the parties may conduct discovery by agreement, but the Court will not involve itself in any disputes that may arise.

(e) **Pretrial Disclosures**: On or before **July 14, 2014**, the parties shall make the pretrial disclosures specified in Fed. R. Civ. P. 26(a)(3)(A)(ii)-(iii) (i.e., deposition testimony and exhibit lists).

### **Other Scheduling Matters**

(a) **Dispositive Motions**: All dispositive motions per Fed. R. Civ. P. 12 or for summary judgment per Fed. R. Civ. P. 56 shall be filed as soon as possible, but not later than **June 30, 2014**. The failure to file such motions timely will be grounds to deny them summarily.

(c) **Motions in Limine**: Any motions in limine must be filed no later than **August 18, 2014** and must include a certification that the movant has in good faith conferred or attempted to confer with the other parties in an effort to resolve any disputes without court action.

(d) **Special Requests to Instruct for Jury Trial**: Pursuant to Local Rule 51.1, requests for jury instructions shall be submitted to the Court no later than **August 18, 2014** and shall be supported by citations of authority pursuant to E.D. Tenn. LR. 7.4. A copy of the proposed jury instructions should be sent as an e-mail attachment in WordPerfect or compatible format to: lee\_chambers@tned.uscourts.gov.

The parties shall confer and submit a joint proposal for jury instructions to the extent possible. Before submitting proposed instructions to the Court, the parties must attempt to resolve any disagreements. If not submitted jointly, each set of proposed instructions must include a certification that the movant has in good faith conferred or attempted to confer with the other parties in an effort to resolve any disputed instructions.

The Court uses the Sixth Circuit Criminal Pattern Jury Instructions as its model in formulating the final instructions given to the jury; therefore, all proposed jury instructions must follow their form of the pattern instructions. The parties shall not submit proposed instructions for matters common to both civil and criminal cases and covered by the pattern instructions unless they seek to depart from those standard instructions.

### **Final Pretrial Conference and Trial**

(a) **Final Pretrial Conference**: A final pretrial conference will be held in this case on **September 2, 2014** at **10:30 a.m. Eastern** before the United States Magistrate Judge, Fourth Floor Courtroom, U.S. Courthouse, 900 Georgia Avenue, Chattanooga, Tennessee.

The parties shall prepare a proposed final pretrial order and submit that proposed order to the Court at least **two** business day before the final pretrial conference by sending it as an e-mail attachment in WordPerfect or compatible format to lee\_chambers@tned.uscourts.gov.

(b) **Trial**: The trial of this case will be held before the United States Magistrate Judge and a jury beginning on **September 15, 2014** in **Chattanooga**, Tennessee and is anticipated to last **7-10 days**. Counsel shall be present at **8:30 a.m.** to take up any preliminary matters which may require the Court's attention. The parties shall be prepared to commence trial at **9:00 a.m.** on the date which has been assigned. If this case is not heard immediately, it will be held in line until the following day or any time during the week of the scheduled trial date.

All other expired deadlines in the prior scheduling order [Doc. 32] remain unchanged. Should the scheduled trial date change for any reason, the other dates set by this Order shall remain as set forth herein. Should the parties desire a change in any of the other dates, they should file a motion suggesting alternate dates and showing good cause in accordance with Fed. R. Civ. P. 16(b)(4).

SO ORDERED.

ENTER:

s/ *Susan K. Lee*

SUSAN K. LEE  
UNITED STATES MAGISTRATE JUDGE